



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

STARLING et al.

Serial No.: 10/030,578

Filed: April 29, 2002

Atty. File No.: 4141-2-PUS

For: "CALCIUM-CONTAINING
STRUCTURES AND METHODS OF
MAKING AND USING THE SAME"

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

) Group Art Unit: 1651

) Examiner: Ruth A. Davis

) TERMINAL DISCLAIMER TO OBVIATE
) A PROVISIONAL DOUBLE PATENTING
) REJECTION OVER A PRIOR PATENT

EXPRESS MAIL® MAILING LABEL NUMBER: EV493478057
DATE OF DEPOSIT: 7-25-05
I HEREBY CERTIFY THAT THIS PAPER OR FEE IS BEING
DEPOSITED WITH THE UNITED STATES POSTAL SERVICE
"EXPRESS MAIL POST OFFICE TO ADDRESSEE" SERVICE
UNDER 37 CFR 1.10 ON THE DATE INDICATED ABOVE AND IS
ADDRESSED TO THE COMMISSIONER FOR PATENTS, P.O. BOX
1450, ALEXANDRIA, VA 22313-1450.

TYPED OR PRINTED NAME: KIM CHRISTIANSEN

SIGNATURE: *Kim Christiansen*

Dear Sir:

The owner, CaP Biotechnology, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173 as presently shortened by any terminal disclaimer of prior Patent No. 6,358,532. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant applications and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney of record.

July 25, 2005
Date

Gary J. Connell
Signature

Gary J. Connell
Registration No. 32,020

☐ Terminal disclaimer fee under 37 CFR 1.20(d) included.

☒ PTO suggested wording for terminal disclaimer was

☐ unchanged.

☒ changed by making reference to "35 U.S.C. 154 to 156 and 173" instead of "35 U.S.C. 154 and 173."

***Certification under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee.**